

## **REMARKS**

Previously pending claims 31-46 have been canceled and new claims 47-65 have been added. With respect to the new claims, support for the new claims is at least supported by paragraphs [0388], [0444], [0452] and [0465] and Figure 29. Reference is made to the published application US2002/0051434.

With respect to the claim objections and the 35 U.S.C. 112 rejection, in view of the new claims, these objections/rejections are now moot. With respect to the double patenting rejection, applicants believe that this was a typographical error (not a commonly owned patent and has a later priority date). However, if the Examiner believes that a terminal disclaimer is required, applicant is willing to submit one.


With respect to the 35 U.S.C. 103 rejection, applicant provides the following in view of the new claims. The present claims refer to transmitting from a subscriber unit a first channel with a selectable data rate and a second channel being a pilot channel which does not carry traffic data. Applicant also wish to note that although the priority claim for this application is quite complex, the priority claim as per the second preliminary amendment goes back to as early as 60/000,775 filed on June 30, 1995 and for the initial concurrently filed non-provisional applications back to June 27, 1996.

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**Application No.:** 09/742,578

Reconsideration and entry of this amendment is respectfully submitted.

Respectfully submitted,

Ozluturk et al.

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